

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-00090-FDW
(3:12-cr-00228-FDW-1)**

TONY HUMPHREY,)	
)	
Petitioner,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	<u>ORDER</u>
)	
Respondent.)	
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THIS MATTER is before the Court on its own motion on the parties' responses to the Court's Order to Show Cause [Doc. 23] and the Fourth Circuit's decision in United States v. Taylor, No. 19-7616. [Docs. 24, 26, 27].

On June 14, 2016, Petitioner filed an Amended Section 2255 Motion to Vacate Sentence. [Doc. 10-1]. This matter has been stayed pending decision of the Fourth Circuit Court of Appeals in United States v. Ali, No. 15-4433, and United States v. Simms, No. 15-4640. Although Ali remains pending, the Court ordered the parties to show cause why this matter should remain stayed in light of intervening decisions by the United States Supreme Court and the Fourth Circuit Court of Appeals. [Doc. 23]. Among those decisions was United States v. Taylor, No. 19-7616. In response, Petitioner agreed that the stay should be lifted because the remaining issue in Petitioner's case, that is, whether attempted Hobbs Act robbery remains a crime of violence under 18 U.S.C. § 924(c)'s force clause, was decided negatively in Taylor. [Doc. 24 at 2]. The Government, on the other hand, acknowledged that the case no longer needs to be stayed under Ali, but asked that the case be stayed pending the issuance of the mandate in Taylor to allow more time for the Government "to determine whether it will seek additional review." [Doc. 26 at 2]. The

Government also requested an additional 60 days to file its response once the mandate in Taylor issues. [Id. at 3]. The Court will grant the Government's request to stay this matter pending the issuance of the mandate in Taylor but will allow only 45 days for the Government to file its response.

IT IS, THEREFORE, ORDERED that the stay in this matter under Ali is hereby **LIFTED**, that this matter is **STAYED** pending the issuance of the mandate in Taylor, and that the Government shall have forty-five (45) days from the issuance of the mandate in Taylor to file its response in this matter.

Signed: October 27, 2020


Frank D. Whitney
United States District Judge

